

The overview of sickness and accident insurance in Poland

(Charakterystyka ubezpieczenia chorobowego i wypadkowego w Polsce)

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Abstract – The authors have characterised sickness and accident insurance in Poland. The attention has been paid to employee sickness understood as a risk for the employer. Social benefits due in cases of sickness and motherhood have been characterised. Rights and conditions for accident benefits have been discussed. The benefit eligibility in cases of occupational diseases has been presented.

Key words – sickness and accident benefits, Poland.

Streszczenie – Autorzy przedstawili charakterystykę ubezpieczeń chorobowych i wypadkowych w Polsce. Zwrócili uwagę na chorobę pracownika rozumianą jako ryzyko dla pracodawcy. Scharakteryzowali świadczenia pieniężne z ubezpieczenia społecznego w przypadku choroby i macierzyństwa. Omówili nabycie prawa i zasady wypłacania świadczeń z zakresu ubezpieczenia wypadkowego, oraz świadczenia wypadkowe jakie otrzymuje pracownik, gdy stwierdzi się u niego chorobę zawodową.

Słowa kluczowe - ubezpieczenia chorobowe i wypadkowe, Polska.

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I. SICKNESS INSURANCE

“Sickness insurances are regulated by the bill of June 25th, 1999, on financial benefits related to social security contributions in case of sickness and maternity leaves” [1,2]

According to the provisions of the bill, the financial benefits are provided to those who do not receive their salaries when they are sick or pregnant or taking care of their newborns.

The bill states that employees who were hired for a definite or initial period of time based on a standard employment contract lasting for over 30 days.

According to the provisions of the Polish Labour Code article 92, an employee who is unable to work because of sickness for a maximum of 35 days annually is entitled to receive salary from the employer. If it is the case that an employee changed workplaces during a given year, that employee's certificate of employment should state the number of days of sick leave for which the employee received payment from the employer.

Starting from the 36th annual day of sickness, an employee receives the sick benefit provided by the Social Insurance Company (ZUS). The employee is entitled to receive it for a maximum of 180 days or 9 months in the case of tuberculosis. The period of the benefit provision is that between the previous inability to work and the next inability to work (because of the same ailment), up to 30 days. The benefit period is decreased by the 35 days, for which the employee has been paid by the employer [3,4].

The benefit period includes days on which an employee is not active at work, but is not eligible for payment and sickness benefit (e.g. because of violent conduct). The benefit period of one year is available to civil servants, teach-

ers, and the employees of the Polish railways, post offices, Telekomunikacja Polska S.A., Supreme Audit Office (NIK), National Bank of Poland (NBP), and PKO Bank Polski.

If an employee has a notice period of one month and is entitled to one salary in the event of contract termination, the employee is eligible for sickness- or maternity-related social security benefits.

If a civil servant is made redundant because of the employing institution re-organization or dissolution, he or she is entitled to receive financial benefits for 6 months at the expense of state budget. If he or she is sick during that time, a sickness benefit will be granted, but the salary will be decreased by the benefit amount.

If the treatment period is prolonged and the employee's future comeback to active duty is confirmed, the sickness benefit period can be extended to additional three months. Such a period can last for 270 days or, in the case of tuberculosis, 360 days. The decision on the extension is made by the physician in charge and the employer is to provide assistance with filling in the documentation. If an employer has doubts about the sick note issued by a physician, the employer can apply for its verification by the supervisor of the health centre and the Social Insurance Company (ZUS) branch.

Some situations can occur when an employee is not eligible for sickness benefits. They include: the forgery of a sick note, sickness during an unpaid or parental leave, sickness while in penitentiary or in the army, sickness resulting from an intentional wrongdoing or violent behaviour, or activity under another employment contract while on sick leave.

If an employee is suspected of carrying a contagious disease and did not take another job offered to him, the employee is not entitled to sickness benefits. The same benefits are not available to those who became unable to work because of their alcohol abuse. Sickness benefits are not available for the unemployed. If an unemployed person undergoes training and he or she is eligible for training benefits, the benefit is still granted if he or she gets sick [3,5]

The directive of the Minister of Labour, Pay, and Social Policies of December 30, 1974 on controlling the credibility of doctor-issued sick notes is still valid. Pursuant to that directive, employers should audit doctor's notes and check the employees who are on sick leaves. The aim of such checks is to verify if the employee in question is not doing any other kind of work or is not involved in leisure. Special attention should be focused on the employees who have a history of incarceration, abuse alcohol, change jobs frequently and go on a lot of sick leaves. If there are any res-

ervations, a doctor must be asked for an opinion. The employee should file a protocol on the improper use of a sick leave. Such a protocol is a basis for depriving an employee of the sickness benefit. Such a decision can also be made by the Social Insurance Company (ZUS), in which case the person concerned receives a written notification.

A person is eligible for sickness benefit for as long as he or she remains an employee of a given employer or company. If the employment contact is terminated, the sick leave is maintained for 3 months in cases of diseases such as brucellosis, tuberculosis, rabies, or hepatitis and for one month in cases of other diseases. The sickness benefit is provided at the expense of the employer.

After the employment contract is terminated, the sickness benefit is not provided if the waiting period is not over. "The waiting period is the period in which an employee hired for a definite period of time will not be eligible for the sickness benefit or payment during sickness if he or she is unable to work. The waiting period is 30 days." [6]

If an employee working for two companies goes on a sick leave, the employee is entitled to receive the sickness benefit from both employers. People with their contracts terminated, recipients of pensions, people who started other jobs, and recipients of unemployment benefits are not eligible for sickness benefits [6,7].

II. AN EMPLOYEE'S SICKNESS AS THE EMPLOYER'S RISK

Sickness of an employee represents a risk for the employer because of the exposure to financial losses. An employer has to provide the benefit of either 80% or 100% for 33 days despite the fact that insurance contributions go to the Social Insurance Company (ZUS). Only in the cases of sicknesses caused by accidents at work or occupational sicknesses the sickness benefit is paid from the employee-provided contributions since day one of the sickness leave.

The financial benefits paid from the social insurance in cases of sickness and maternal leaves include [6,7,8]:

1. Sickness benefit – it varies depending on the insurance amount. It is available after 30 consecutive days of sickness insurance for the higher education institution graduates within 90 days after graduation. A sickness benefit is granted to those who are insured and had an accident at work, on their way to work or back from work, have an occupational disease and their insurance is valid for 10 years (the mandatory period of sickness insurance). Sickness insurance is

available to the members of the Sejm and Senate who take up sickness insurance within 90 days of finishing their tenure.

2. Rehabilitation benefit – available to those who have used up their sickness benefits and have to be treated for 12 months. This benefit amounts to 90% of the salary or income as the basis for the sickness benefit for 90 days. After that period the benefit amounts to 90%. Only occupational diseases and accidents at work result in the benefit amounting to 100%.
3. Compensation benefit – available to those who receive decreased payment on account of rehabilitation and learning for another line of work. Such benefit can be provided for 24 months. If the rehabilitation is a consequence of an accident at work or occupational disease, an employee can receive the compensation benefit from the accident insurance.
4. Maternal benefit – available to women who gave birth to a child, legally adopted a child of no more than 1 year of age, or adopted a child as a foster parent. If a woman lost her job while pregnant, she is also eligible for the maternal benefit. If the mother is back at work earlier, the father is eligible for the leave and the benefit. The maternal benefit can be received for 18 weeks if this is a first child, 28 weeks if more than one child is born, and 18 weeks if the child is adopted. If a woman gives birth to a child while on maternity leave resulting from the birth of the previous child, the period of maternal benefit provision is reduced by 2 weeks and amounts to 100% of payment (income).
5. Care allowance – available to those insured who are not working because of taking care of children up to 8 years of age, sick children up to 14 years of age, or other sick people in the family. The care allowance provision period is 60 days per year for children up to 8 years old and sick children up to 14 years old and 14 days for children over 14 and sick members of family. The payments made as care allowance cannot be granted for more than 60 days per year. Care allowance constitutes 80% of the salary providing the basis for calculating benefits.

It has to be noted that the basis for calculating sickness benefits is subject to valorisation. The valorisation is performed once after 181 days of benefit period. The basis of valorising the benefit amount cannot be lower than the minimum salary decreased by 18.71%.

„The basis for sickness and rehabilitation benefits due for the period after the sickness benefit is available cannot be

higher than 200% of the average monthly salary for the previous quarter of the year announced for pension-related reasons.

In order for the sickness benefit to be paid out, a doctor's note stating the reasons for sickness is required, especially in cases of accidents [9].

III. ACCIDENT INSURANCE – GAINING RIGHTS AND THE REGULATIONS OF BENEFIT PAYMENT

Accident insurance is aimed at compensating for the outcomes of unpleasant events. These include: workplace accidents, disability, diseases, or death.

„A workplace accident is an unexpected event whose cause is external and which results in injury or death related to one's activity at work" [10].

A workplace accident may occur while an employee performs his or her everyday duties that the employee is supposed to perform because of being instructed so by the supervisors or because a need to do so arose. Such accidents include those suffered on the way between the workplace and the place where actions regulated by the work contract are performed.

Workplace accidents also include those suffered on business trips and those caused by the employee's improper actions when performing duties. Workplace accidents can be those during trainings is self-defence or performing duties delegated by the company unions active within a given organisation [4,8].

Accident benefits are provided to employees when an occupational disease (caused by harmful factors that are present when working in a given environment) is diagnosed. There are three types of accidents [8]:

1. Fatal accident is the case when the employee dies within 6 months after the accident took place.
2. Serious accident is the case when an employee was seriously injured. It can involve, for example, the loss of eyesight, hearing, or the ability to speak. These can also be other cases of negative influence on the employee's functioning or those which contributed to the employee's incurable disease that poses a threat to one's life, renders the person unable to work, or disfigures the employee.
2. Group accident is an accident that affects two or more people.

After an accident takes place, it is vital to investigate the causes and circumstances of the accident thoroughly and swiftly. The place of the accident has to be secured. The

injured must be attended to. The danger needs to be tackled. The work inspector must be notified. The documentation of the accident must be prepared. The state of the devices at the scene needs to be checked. Relevant sketches and photos must be made. The injured and other co-workers need to be interrogated. A doctor needs to be contacted. The occupational risk must be assessed.

In order to be eligible for a post-accident benefit, an accident occurring in extraordinary circumstances must be recognized. Such an accident can happen while rescuing other people in jeopardy, protecting public property, helping a civil servant, performing professional obligations related to persecuting criminals, working as a civil servant, working as a part of a therapy, performing the role of a jury member or a guardian, and during natural disasters. [8]

If an employee cannot perform professional responsibilities following an accident, the employee is eligible for accident benefit if the relevant documentation is appropriately submitted. The Social Insurance Company (ZUS) analyses the submitted documents, investigates the causes of the accident, determines the degree to which the employee is affected and makes a decision on the statutory benefit provision.

Employees who had an accident or suffer from an occupational disease are eligible for a variety of benefits. That includes a sickness benefit, if an employee is unable to perform professional duties because of the outcomes of the accident.

An insured employee can receive a rehabilitation benefit provided after the end of a sickness benefit provision, with the employee still unable to resume work, yet has medically confirmed prospects of coming back to work in the future.

As a result of an accident, an employee may sustain a serious, permanent injury, due to which the employee's pay is decreased. Such employee can receive a compensation benefit because of the financial loss suffered.

An employee who was in an accident may also receive a single damages payment. The same damages payment is available to the family of the deceased insured person or pensioner.

The outcome of an accident can be disadvantageous for an employee, and the treatment may be prolonged. In such cases, a pension is provided because of the inability to work [4,5].

The adjudicating panel may instruct an employee to re-qualify due to the employee's workplace accident or occupational disease rendering him or her unable to work in the current position. In such cases, the insured person is eligible for a training pension 100% of the person's pay.

In the event of an accident, the family of the deceased person or pensioner is entitled to receive a survivor's bene-

fit. Additionally, orphans are eligible for a special extra amount. In specific cases where disability is a factor, a care allowance is also granted.

Various benefits may be granted following an accident in order to refund dental treatment, vaccinations, or orthopaedic equipment, as stipulated in relevant regulations.

The injured are also eligible for being paid damages. Damages are paid if there are bodily injuries: damaged skin, scars, fractured bones, bruises. The mode and regulations of specifying the degree of damage done is stipulated in the directive of the Minister of Labour, Pay, and Social Policies of December 2002 on details of recognising permanent or prolonged injuries and procedure of applying for a single damages payment. The amount is calculated based on the average salary, and 20% of that salary is granted for each per cent point of damage to health. If one's condition deteriorates by 10 or more per cent points, the single damages payment is increased by a definite percentage of average salary for each per cent point of the increase.

In order to receive the benefits related to accident insurance, relevant documents need to be submitted. In the case there is no post-accident protocol or accident card, the accident is not justified as workplace-related, or the accident justification is unacceptable, the decision on the benefit provision is negative.

The negative decision is also made when the materials indicate that the cause of the accident was the employee's breach of the regulations on the protection of life and well-being as a result of the employee's carelessness or intoxication.

A damages payment due to a permanent or prolonged injury is made by the the Social Insurance Company (ZUS) within 14 days after receiving a lawful statement specifying the degree and type of injury. Similarly, a damages payment in the case of death is also made within 14 days [7,8,9-12].

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